


MIAMI BEACH

PLANNING DEPARTMENT

BOARD OF ADJUSTMENT STAFF REPORT

FROM: Thomas R. Mooney, AICP 
Planning Director

DATE: October 3, 2014 Meeting

RE: BOA File No. 3747
118 West Dilido Drive – Single Family Home

The applicant, Mary Carpenter, is requesting a variance to exceed the maximum permitted elevation within required yards in order to construct a pool and deck in the rear yard of a new two-story single family residence.

LEGAL DESCRIPTION:

See attached exhibit "A".

STAFF RECOMMENDATION:

Approval of the variance with conditions.

SITE DATA

Zoning -	RS-3
Future Zoning-	RS
Lot Size -	17,385 SF
Lot Coverage	
Existing-	Not provided
Proposed-	4,213 SF / 24.2%*
DRB Maximum-	4,346 SF / 25%
Unit Size	
Existing-	Not provided
Proposed-	7,432 SF / 42.7%*
Maximum-	8,692.5 SF / 50%
Height	
Existing-	2 stories
Proposed-	2 stories

EXISTING STRUCTURE:

Year Constructed:	1937
Architect:	Arnold Southwell
Vacant Lot:	No
Demolition:	Full

*As per submitted plans

THE PROJECT:

The applicant has submitted plans entitled "Carpenter Residence", as prepared by Choeff + Levy P.A., dated August 1, 2014.

The applicant is proposing total demolition of the existing structure and the construction of a new two story single family home, including a pool and a single story accessory building at the rear of the property.

The applicant is requesting the following variance:

1. A variance to exceed by 1'-4" the maximum permitted elevation height of +7'-5" NGVD within the required rear yard in order to build the pool's retaining walls at +8'-9" NGVD.

- Variance requested from:

Sec. 142-105. - Development regulations and area requirements

(b) The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(8) Exterior building and lot standards. The following shall apply to all buildings and properties in the RS-1, RS-2, RS-3, RS-4 single-family residential districts:

b. Adjusted grade. In no instance shall the elevation of any required yard be higher than one-half the difference between grade, as defined in section 114-1, and the minimum required flood elevation.

The established grade for the site is 5'-9" NGVD while the base flood elevation is set at +9'-0" NGVD. The pool's retaining walls within the required rear yard are not permitted to exceed the average grade of 7'-5" NGVD. The applicant is proposing to construct the pool deck 3" below the finish floor elevation of the house and the pool's retaining walls to continue at the same height. In this case due to the existing height of grade, additional steps would be required to connect the pool deck with the pool. As proposed, the pool retaining walls exceed the maximum permitted height by 1'-4". Although the pool deck is at the same height of the pool, only the pool's retaining walls are subject to the variance request because they are located within the required rear yard. The rear yard complies with the minimum open space and landscape requirements of the City Code.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board of Adjustment finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

COMPLIANCE WITH ZONING CODE:

The application, as submitted, appears to be consistent with the pertinent requirements of the Zoning Code. However, this shall not be considered final zoning review or approval. All zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

STAFF ANALYSIS:

The subject site is an interior lot containing a pre-1942 architecturally significant home. The applicant obtained approval from the Design Review Board in 2013 to replace the existing home, which will be demolished and the construction of a new two-story single family home. The applicant is requesting a variance to exceed the maximum permitted elevation in the required yard for the pool's retaining walls. Staff has no objection to the variance request due to the minor increase in the elevation of the pool's retaining walls only.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **approval** of the variance, subject to the following conditions:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
2. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
3. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
4. The applicant shall comply with all conditions imposed by the Public Works Department.

5. The conditions on this Order are binding on the applicant, the property's owners and all successors in interest and assigns.
6. This order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
7. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code, except to the extent of the variance granted herein.
8. This Order shall be recorded, at the expense of the applicant, in the Public Records of Miami-Dade County; the original or a certified copy shall be provided to the Planning Department prior to the issuance of a Building Permit.

EXHIBIT "A"

LEGAL DESCRIPTION

Lot 4, in Block 2, of DI LIDO ISLAND, according to the Plat thereof, as recorded in Plat Book 8, at Page 36, of the Public Records of Miami-Dade County, Florida, together with a strip of land 8 feet wide contiguous to the Westerly boundary line of the said Lot 4, in Block 2, lying between the Westerly extension of the Northerly and Southerly boundary lines of the said Lot 4, in Block 2; and the North 35 feet of Lot 3, in Block 2, of DI LIDO ISLAND, according to the Plat thereof, as recorded in Plat Book 8, at page 36, of the Public Records of Miami-Dade County, Florida, together with a strip of land 8 feet wide contiguous to the Westerly boundary line of the North 35 feet of the said Lot 3, in Block 2, lying between the Westerly extension of the Northerly and Southerly boundary lines of the North 35 feet of said Lot 3, in Block 2.